REMARKS

Claims 1-3, 5-24 are pending. Claims 1, 5, 7, 9, 12, 16, 18, 23, and 24 have been amended. Claims 4 and 15 are canceled without prejudice or disclaimer of the subject matter contained therein. New claims 25 and 26 have been added. Claim 26 is supported by paragraph 67 of the originally-filed specification.

Claims 1-3, and 5-24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Mehra (US 6,185,459) and/or under 35 U.S.C. 103(a) as being obvious over Mehra. Claim 1 is directed to an implantable medical device including:

> "means for determining, in response to an increase in the frequency of the first events not being detected, whether a predetermined number of the second event have occurred for which the therapy using the adjusted parameters has not been delivered; and
>
> means for adjusting parameters associated with detecting whether there is an increase in the frequency of first events in response to the predetermined number of the second event occurring for which the therapy has not been delivered."

Mehra discloses a pacemaker for measuring an endpoint E_n, which may be PACs per hour, over an extended time period during delivery of a tachyarrhythmia prevention pacing mode. If the endpoint exceeds an acceptable range, the device adjusts the therapy parameters allowing for an increase in the aggressiveness of the arrhythmia prevention pacing therapy. In the event that the most aggressive settings are unsuccessful in reducing the value of the measured endpoint, an alternative arrhythmia prevention pacing modality may be selected. The new device may then operate employing a newly defined desired endpoint range associated with the newly selected arrhythmia prevention pacing modality. Applicant respectfully asserts that Mehra fails to teach, suggest or imply, automatically adjusting the desired endpoint range or any parameter associated with detecting whether there is an increase in the frequency of first

events. The endpoint range of one or more measured metrics are defined by physician programming (col. 4, lines 22-23, col. 19, lines 14-16, col. 21, lines 52-54) As such the endpoint range is not automatically adjusted. Furthermore, the endpoint range is compared to an endpoint measured during delivery of a tachyarrhythmia prevention pacing mode and the new endpoint range is used in association with a newly selected pacing modality when a previous pacing modality is determined unsuccessful. Applicant submits, therefore, that the new endpoint range is not used if a therapy has not been delivered. Accordingly, Applicant respectfully asserts that Mehra fails to teach, suggest or imply, among other things, "adjusting parameters associated with detecting whether there is an increase in the frequency of first events in response to the predetermined number of the second event occurring for which the therapy has not been delivered" (emphasis added). For at least this reason, Applicant respectfully requests withdrawal of the rejection.

In the above-referenced office action, with regard to claims 8-11 and 19-22, the Examiner states that Mehra does not disclose determining whether the second event is detected during delivery of therapy, determining whether therapy has been delivered a predetermined number of times, or determining whether therapy has been delivered more than a predetermined time threshold. The Examiner further states that performing these determinations would be obvious to one having skill in the art because the applicant has not disclosed that performing these determinations provides an advantage, is used for a particular purpose, or solves a stated problem. Applicant respectfully traverses as set forth below.

Determining whether the second event is detected during delivery of therapy is performed for the purpose of increasing one of the delivery duration and the delivery rate in response to the second event being detected during delivery of the therapy, e.g. as in claim 8.

Determining whether therapy has been delivered a first predetermined number of times is performed for the purpose of determining whether the second

event was detected subsequent to the delivery of the therapy for a second predetermined number of the first predetermined number of times and automatically adjusting one of the number of premature atrial contractions and the time window in response to the second event not being detected subsequent to the delivery of the therapy for each of the predetermined number of times, e.g., as in claim 9.

Determining whether the therapy has been delivered more than a predetermined time threshold is performed for the purpose of automatically adjusting one of the number of premature atrial contractions and the time window in response to the therapy being delivered more than the predetermined time threshold, e.g. as in claim 11.

As such, Applicant respectfully asserts that the particular purpose for performing each of the determinations listed above is clearly described and distinctly claimed. Applicant respectfully requests that the Examiner reconsider the above-listed claims with examination of each claim element. It is unclear to the Applicant what evidentiary support in the cited prior art is the basis for the rejection of claims 8-11 and 19-22. Applicant respectfully asserts that the Mehra reference fails to render each and every element of claims 8-11 and 19-22 obvious to one having skill in the art. As such, the rejection under 103(a) should be withdrawn.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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